BACKGROUND PAPER FOR HEARING

COMMITTEE ON DENTAL AUXILIARIES (COMDA)

FINDINGS AND RECOMMENDATIONS BY THE INDEPENDENT CONSULTANT ON THE SCOPE OF PRACTICE FOR DENTAL AUXILIARIES

GENERAL BACKGROUND AND DESCRIPTION OF COMDA

The Committee on Dental Auxiliaries (COMDA) is a statutorily created organization within the jurisdiction of the Dental Board of California (Board). The legislation that created COMDA was enacted in 1974. Since 1998, the committee has statutorily-granted regulatory powers: dental auxiliary license examination and licensing, but not licensed discipline or educational program approval which continue to reside in the authority of the Board. COMDA is authorized by statute to make recommendations to the Board regarding dental auxiliaries. The term "dental auxiliaries" includes unlicensed dental assistants (DA), and the following licensed personnel: registered dental assistants (RDA), registered dental hygienists (RDH), registered dental assistants in extended functions (RDAEF), registered dental hygienists in extended functions (RDHEF), and Registered Dental Hygienist in Alternative Practice (RDHAP).

COMDA is presently composed of 9 members, all appointed by the Governor. COMDA makes recommendations to the Board regarding auxiliary duties, settings, degree of supervision, career ladder, and also performs certain functions that have been statutorily granted to it. Currently, there are over 45,000 licensed auxiliaries.

PRIOR SUNSET REVIEW

Concurrent with the last review of the Board, COMDA was reviewed by the Joint Legislative Sunset Review Committee (JLSRC) two years ago (2000-2001). There had been longstanding dissatisfaction with the deliberations and actions of the Board by the various organizations representing dental auxiliaries and others for a variety of reasons. The Board was criticized for being controlled by its dentist majority and favorable to their interests over those of the public and the licensed dental auxiliaries. It was accused of being unduly absorbed with minutiae – extensive deliberations on whether or not particular duties or functions may be performed by one or more of the categories of dental auxiliaries – the so-called “duty of the month” debate over the scopes of practice of dental auxiliaries.

Some specific problems directly related to dental auxiliaries with the Board included: (1) recalcitrance and excessive delay in adopting the regulations that are necessary to implement enacted legislation – particularly when related to dental auxiliaries - such as that which created the RDHAP; (2) ignoring the

intent of the Legislature in enacting legislation - again such as the RDHAP; and (3) apparent bias against dental auxiliaries, and in particular – dental hygienists – by delay or failure to authorize them to practice procedures that are within their competence through their education and training.

The JLSRC recommended that the Board be reconstituted and that the status of COMDA as a statutorily-created committee of the Board should not be changed given the change of the Board structure and regulatory authority over dental auxiliary practice. Further, the JLSRC recommended that if changes are not made to improve the Board's representation of the public's interests and those of dental auxiliaries, then consideration should be given to making the COMDA into an independent licensing agency for dental auxiliaries. Other JLSRC recommendations include: (1) the scope of practice of dental auxiliaries should be moved from regulations to statute; (2) a more structured framework be applied in defining the scope of practice for dental auxiliaries and that the scope of practice be based on a general range of duties; (3) a system be established for easy determination of appropriate scope and standards for dental auxiliaries which allows them to adopt and utilize new equipment and emerging technologies as they arise; (4) all RDAs and new RDA applicants should be required to complete approved courses in radiation safety and coronal polishing to ensure consumer protection; (5) educational requirements should be implemented for infection control and CPR as well as dental jurisprudence for RDAs and RDHs; and (6) the on-the-job training experience requirement for becoming an RDA should be reduced from 18 to 12 months.

DENTAL AUXILIARY SCOPE OF PRACTICE STUDY

SB 26 (Figueroa), Chapter 615, Statutes of 2001, mandated that an independent consultant conduct a review of the scope of practice for dental auxiliaries and the findings and recommendations of the study shall be submitted to the Legislature by September 1, 2002.

In accordance with SB 26, the Department of Consumer Affairs (DCA) contracted with Sjoberg Evashenk Consulting to conduct the review. See attached report: Review of the Regulatory Structure and Scope of Practice for California's Dental Auxiliaries.

The independent consultant states that California and the nation are clearly challenged to meet the dental health care demands of our population. COMDA seeks to contribute to meeting the State's dental care needs by fully utilizing auxiliaries, stating "Full utilization of auxiliaries is realized when all possible duties are delegated to auxiliaries, consistent with the protection of public health and safety, so that services are accessible to as many Californians as possible." However, over the three decades since the enactment of the legislation, dental auxiliary regulatory structure has proven to be rigid and restrictive. Regulations reflect the scope of practice for each category with the duty and tasks narrowly defined and inflexible, and the COMDA and the Board regulatory processes in place to address emerging practice demands and technologies have been cumbersome and unresponsive. Under the current legal and regulatory structure, the consultant found that dental auxiliaries and the dentists they assist cannot fully utilize the knowledge, skills and abilities that they have been trained, educated, and are competent to provide. Thus, skills and capabilities developed by these individuals are not fully leveraged to best meet the demand for dental care.

The Legislature also intended that dental auxiliary classifications would facilitate "career ladder" opportunities. While COMDA is committed to providing a "viable career ladder" for its licensees, opportunities for professional growth and career movement are constrained. In reality, the evolution of practice and the underlying training and educational programs suggest that the auxiliary categories are

not linear; whereas dental assisting is characterized most often in terms of restorative dental care, the practice of dental hygiene is primary care for preventive and prophylactic services. The consultant sees two career paths potentially offering advancement—complementary and parallel—rather than a single path comprising an occupational continuum.

In order to align the scope of practice and the regulatory structure for each auxiliary category with the Legislature's intent, and to meet the demands of dentistry's changing technology, market economics, workforce dynamics, and the public and private health care needs of California's growing population, several significant changes are warranted.

The consultant's recommendations include the following:

- Establishing the scope of practice for dental auxiliaries in code. Delineate occupational definitions and practice parameters in terms of position, responsibilities, and services rather than the current regulatory approach specifying finite tasks and duties. Set practice boundaries by establishing prohibited duties and responsibilities;

- Revising supervision standards to afford licensed dentists wider discretion to assess the knowledge, skills, and abilities of each auxiliary member employed and deploy their services in a manner consistent with regulation, as appropriate, and in the best interests of the patient;

- Requiring non-credentialed dental assistants to complete basic coursework in infection control and patient safety;

- Broadening the scope of practice for the Registered Dental Assistant (RDA) by establishing a more "non-permissive" or open structure. Allow the dentist to delegate and set the supervision level for each activity based upon his or her assessment of the knowledge and competency of the RDA;

- Establishing modularized certification courses for RDAs that lead to RDAEF licensure, or allow the individual to perform specific advanced tasks or attain additional competency in a specialty area, such as orthodontics;

- Revisiting the requirements that RDAEF programs be offered only at dental schools and allowing programs to be provided at community colleges, through extension programs, proprietary dental assisting or hygiene schools, or other appropriate educational institutions;

- Expanding the scope of practice for RDAEFs to include amalgam and composite restorations;

- Allowing dentists to obtain waivers from the restriction of employing a maximum of two RDAEFs;

- Broadening the scope of practice for RDHs by establishing an open regulatory structure and allowing dentists the discretion to determine the level of supervision appropriate;

- Revisiting the relevance of the expanded function RDH;

- Fully implementing the laws establishing the "alternative practice" RDH by facilitating the development and availability of educational programs for licensure;

- Establishing provisions that would allow an "agent" relationship between RDHAPs and their supervising dentist to mitigate barriers related to prescription and patient of record issues in public health delivery settings; and

- Allowing RDHAPs to supervise, in a limited capacity, RDAs and RDAEFs in the public health arena.

COMDA'S ROLE

COMDA has devoted considerable effort to this issue since August 1999, when the Board requested that COMDA begin a review of the regulations that define the duties that RDA's can perform to assist the Board in meeting the mandate of Business and Professions Code Section 1754 that it review such duties every seven years.

In August 1999, COMDA began that review, as well as a review of the regulations defining the duties of DAs and EFs, and the appropriateness of the entire regulatory scheme. COMDA decided to appoint a Task Force of 14 members from all aspects of dentistry, which met for the first time in December 1999.

The Task Force held lengthy meetings throughout the State in March, May, August, and November of 2000, and in May 2001, at which time it voted to disband after having made only preliminary recommendations.

Several members of the Task Force testified as individuals or as representatives of professional organizations at the December 2000, JLSRC sunset hearings about the controversies that had arisen during their meetings. Their testimony underscored the fact that devising a regulatory scheme on which all factions could agree was not a simple task.

Although the Task Force disbanded without making any final recommendations, COMDA continued its review by evaluating the various reports, minutes, and Preliminary Recommendations of the Task Force, and broadly soliciting input from the public, at COMDA meetings in August and November 2001, and in March 2002.

At COMDA's March, 2002 meeting, it decided to defer any further review until the independent consultant issued its report on auxiliary scopes of practice, as mandated by SB 26.

At its August 8th meeting, COMDA reviewed the preliminary report of the consultant that was issued in July, 2002, and agreed with the vast majority of the consultant's conclusions and recommendations. In fact, many of them had been preliminarily adopted by COMDA in November, 2001, after its over two years of intense analysis.

After reviewing the final report issued to the Legislature on September 1, COMDA has found that the conclusions are nearly identical to those reached by COMDA in November, 2001, and August, 2002, with regard to dental assistants, RDAs, and EFs. COMDA had not undertaken a review of the RDH, RDHEF, and RDHAP license categories prior to August, 2002, but also agrees with the majority of the consultant's findings and recommendations in those areas after reviewing them during its August and October meetings.